
2000 SPECIAL SESSION “A”

Summary of Major Legislation Passed



*Compiled and Edited by
Office of the Senate Secretary*

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Senate Committee on Criminal Justice

SB 4-A — Public Records/Death Penalty

by Senators Burt, Campbell, Brown-Waite, Silver, Horne, Bronson and Kurth

The current public records exemption which provides for the confidentiality of information that would identify an executioner, or a person administering a lethal injection, would be expanded to include any person “prescribing, preparing, compounding, or dispensing” the lethal injection.

If approved by the Governor, these provisions take effect upon becoming law.

Vote: Senate 37-0; House 110-0

SB 10-A — The Death Penalty

by Senators Brown-Waite, Burt, Klein, Silver, Campbell, Bronson, Horne and Kurth

Senate Bill 10-A amends s. 922.105, F.S., to provide that a death sentence shall be executed by lethal injection unless the person affirmatively elects to be executed by electrocution. The sentence shall be executed under the direction of the Secretary of the Department of Corrections or the Secretary’s designee.

The election for death by electrocution is waived unless it is personally made in writing and delivered to the warden of the correctional facility within 30 days after the issuance of the Florida Supreme Court’s mandate affirming the sentence of death on the direct appeal or, if the mandate issued before the effective date of the act, within 30 days after the effective date. If a warrant of execution is pending on the effective date of the act, or the warrant issued within 30 days after the effective date, the person subject to warrant shall have waived election of electrocution unless a written election signed by the person is submitted to the warden no later than 48 hours after a new date for execution is set by the Governor.

If approved by the Governor, these provisions take effect upon becoming law.

Vote: Senate 37-0; House 102-5

HB 1-A — Death Penalty Reform Act of 2000

by Crime & Punishment Committee, Rep. Crist and others (SB 12-A by Senators Burt, Brown-Waite, Silver, Campbell, Bronson, Horne and Kurth)

Senate Bill 12-A creates a “dual track” or “parallel track” capital postconviction process, in which the death-sentenced inmate files his or her “capital postconviction action” (in the legislation referring to collateral proceedings initiated after the direct appeal) almost contemporaneously with the inmate’s direct appeal. In the case of a defendant sentenced to death before the effective date of the act, the defendant or defendant’s capital postconviction counsel must commence a fully pled postconviction action within 180 days after the filing of the appellant’s initial brief in the direct appeal. In every capital case in which the trial court imposed the sentence of death before the effective date of this act, a capital postconviction action shall be barred unless it is commenced on or before January 8, 2001, or any earlier date provided by the law in effect immediately prior to the effective date of this act.

The defendant or defendant’s capital postconviction counsel must commence a fully pled postconviction action in the Florida Supreme Court raising any claim of ineffective assistance of direct appeal counsel within 45 days after mandate issues affirming the death sentence on direct appeal. No claim of ineffective assistance of capital postconviction counsel may be raised in a state court.

Other time periods and requirements are created and relate to the filing of the state’s response, the scheduling and holding of an evidentiary hearing, the disposition of the action, and other postconviction matters such as public records production and appointment of counsel. The bill also provides that the Florida Supreme Court may adopt rules regarding specific procedural provisions in the bill. The adopted rules supersede the statutory law on procedural matters.

The bill also repeals, in whole or in part, several rules of criminal procedure relating to capital postconviction proceedings, and s. 924.051(6)(b), F.S., which provides time limitations for the filing of a motion for postconviction relief.

The bill also limits the number of state postconviction actions and bars successive postconviction actions except for actions in which the defendant is raising a claim of newly discovered evidence of actual innocence. A successive postconviction action raising an actual innocence claim is barred unless commenced by filing a fully pled postconviction action within 90 days after the facts giving rise to the cause of action were discovered or should have been discovered with the exercise of due diligence. Unless the facts underlying the claim, if proven and viewed in light of the evidence as a whole, would be sufficient to establish by clear and convincing evidence that, but for

constitutional error, no reasonable fact finder would have found the defendant guilty of the underlying offense.

The bill also addresses attorney registry issues by requiring that appropriation for attorney registry fees go directly to the Comptroller and that registry attorneys provide the Comptroller with billing documentation.

The bill also addresses issues relating to conflict cases in capital postconviction proceedings by authorizing a Capital Collateral Regional Counsel (CCRC) to withdraw from a case, prohibiting a CCRC from accepting an appointment or taking any other action that will create a conflict of interest, and providing for withdrawal of an appellate public defender when the appellate public defender served as the defendant's trial counsel.

The bill also requires the Commission on Capital Cases to compile and analyze case-tracking reports produced by the Florida Supreme Court.

The bill also strongly encourages the courts to impose sanctions against an inmate, inmate's counsel, or both, who engage in abusive or dilatory proceedings in a capital postconviction case.

The bill also requests that the Florida Supreme Court study the feasibility of centralized case management and submit its recommendations to the Legislature before January 1, 2001.

If approved by the Governor, these provisions take effect upon becoming law. Also, the repeal of the criminal rules take effect upon becoming law since the bill received the constitutionally required two-thirds (2/3's) vote of the Senate and the House.

Vote: Senate 30-7; House 80-35